

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

THOMAS V. WILDER, *et al.*,

Plaintiffs,

v.

GBG USA INC.,

Defendant.

Case No. 1:20-cv-11987-MLW

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, Plaintiffs Thomas V. Wilder, as he is Trustee of the Newbury-284 Nominee Trust, and David J. Mallen, as he is Trustee of the Newbury-284 Nominee Trust (collectively, "Landlord"), hereby move for summary judgment in the above-captioned matter.

This is a simple collection case. Landlord rented a commercial property on Newbury Street in Boston, Massachusetts, to a tenant. Defendant guaranteed the lease. The tenant defaulted in April 2020 and claimed the COVID-19 epidemic prevented it from paying rent, but this was just a cover for the tenant to implement its existing plan to close all of its retail stores nationwide and pivot to an online-only business model. Landlord terminated the lease and demanded that Defendant fulfill its obligations under the guaranty. Defendant has refused to do so and is now actively contemplating insolvency.

There is no dispute regarding the contracts at issue or the material facts that establish Defendant's liability. Summary judgment is appropriate, and any delay to allow Defendant to conduct unnecessary fact discovery only threatens to cause Landlord irreparable harm because it

may then be too late for Landlord to collect on any judgment.

For all the reasons set forth in the Memorandum in Support of Plaintiffs' Motion for Summary Judgment, this Court can—and should—grant this Motion to prevent injustice and ensure that Landlord is made whole.

Plaintiffs respectfully request that the Court grant Plaintiffs' Motion for Summary Judgment.

REQUEST FOR ORAL ARGUMENT

Plaintiffs respectfully request that the Court order oral argument on Plaintiffs' Motion for Summary Judgment.

Dated: March 16, 2021

THOMAS V. WILDER, as he is TRUSTEE
OF THE NEWBURY-284 NOMINEE
TRUST, and DAVID J. MALLIN, as he is
TRUSTEE OF THE NEWBURY-284
NOMINEE TRUST

By their attorneys,

/s/ Vincent J. Pisegna
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on March 16, 2021.

/s/ Brian R. Richichi

Brian R. Richichi, BBO No. 706255

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